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MARTIN & FERRARO, LLP
ATTORNEYS AT LAW
1925 Century Park East, 17th Floor
Los Angeles, California 90067

Telephone
(310) 286-9800

Facsimile
(310) 286-2795

FACSIMILE TRANSMITTAL

TO:

Name: Mail Stop AMENDMENT
Group Art Unit 3772
Examiner Michael A. Brown

Firm: U.S. Patent & Trademark Office

Fax No.: 571-273-8300

Subject: U.S. Patent Application No. 10/631,309
Gary K. Michelson
Filed: July 31, 2003
METHOD FOR THE DELIVERY OF ELECTRICAL
CURRENT TO PROMOTE BONE GROWTH
BETWEEN ADJACENT BONE MASSES
Attorney Docket No. 101.0037-02000
Customer No. 22882
Confirmation No.: 1889

FROM:

Name: Amedeo F. Ferraro, Esq.

Phone No.: 310-286-9800

No. of Pages (including this): 7

Date: June 11, 2007

Confirmation Copy to Follow: NO

Message:

CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that the attached Transmittal Form (in duplicate; \$130.00 total amount to cover the Terminal Disclaimer fee to be charged to Deposit Account No. 50-1066), Reply to Office Action and Terminal Disclaimer are being facsimile transmitted to the U.S. Patent and Trademark Office on June 11, 2007.



Miyabi Grace Forker

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FORM PTO-1083

Attorney Docket No.: 101.0037-02000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Gary Karlin Michelson

Serial No: 10/631,309

Filed: July 31, 2003

For: METHOD FOR THE DELIVERY OF
ELECTRICAL CURRENT TO PROMOTE
BONE GROWTH BETWEEN ADJACENT
BONE MASSES

Confirmation No.: 1889

Art Unit: 3772

Examiner: Michael A. Brown

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith is a reply to the Office Action dated May 30, 2007 in the above-identified application.

- ☐ No additional fee is required.
- ☐ Applicant hereby requests a ***month extension of time to respond to the above office action.
- ☒ Terminal Disclaimer is enclosed.

The fee has been calculated as shown below:

The fee has been calculated as shown below.							
	(Col. 1) CLAIMS REMAINING AFTER AMENDMENT		(Col. 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Col. 3) PRESENT EXTRA*	LG/SM \$ ENTITY FEE		ADD'L FEE DUE
TOTAL CLAIMS FEE	44	-	44	0	LG=\$50 SM=\$25	\$50	\$ 0
INDEPENDENT CLAIMS FEE	1	-	3	0	LG=\$200 SM=\$100	\$200	\$ 0
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIMS					LARGE ENTITY FEE = \$360 SMALL ENTITY FEE = \$180		\$ 0
TOTAL							\$ 0

* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.

** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, write "20" in this space.

*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, write "3" in this space. The "Highest Number Previously Paid For" (Total or Independent) is the highest number found from the equivalent box on Col. 1 of a prior amendment or the number of claims originally filed.

- ☒ The total amount of \$130.00 to cover the Terminal Disclaimer fee is to be charged to Deposit Account No. 50-1066.
- ☒ The Commissioner is hereby authorized to charge any deficiencies of fees associated with this communication or credit any overpayment to Deposit Account No. 50-1066. A copy of this sheet is enclosed.
- ☒ Any filing fees under 37 C.F.R. § 1.16 for the presentation of extra claims
- ☒ Any patent application processing fees under 37 C.F.R. § 1.17

Respectfully submitted,

MARTIN & FERRARO, LLP

Date: June 11, 2007

By: Amedeo F. Ferraro
Registration No. 37,1291557 Lake O'Pines Street, NE
Hartville, Ohio 44632
Telephone: (330) 877-0700
Facsimile: (330) 877-2030

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PATENT
Attorney Docket No. 101.0037-02000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	Confirmation No.: 1889
Gary Karlin Michelson)	
Serial No.: 10/631,309)	Group Art Unit: 3772
Filed: July 31, 2003)	
For: METHOD FOR THE DELIVERY)	Examiner: Michael A. Brown
OF ELECTRICAL CURRENT TO)	
PROMOTE BONE GROWTH)	
BETWEEN ADJACENT BONE)	
MASSSES)	

Mail Stop AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REPLY TO OFFICE ACTION

In reply to the Office Action dated May 30, 2007, the following remarks are submitted:

In the Office Action, the Examiner rejected claims 1-9, 11-17, 23-24, 26-31, 35-36, and 40-44 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 64-75, 99-104, and 123-128 of Applicant's U.S. Patent No. 6,120,502. Applicant is submitting concurrently with this Reply a Terminal Disclaimer disclaiming the terminal part of any patent granted in the present application which would extend beyond the expiration of U.S. Patent No. 6,120,502. Applicant submits that the Examiner's rejection of claims 1-9, 11-17, 23-24, 26-31, 35-36, and 40-44 under the judicially created doctrine of obviousness-type double patenting has been overcome.

The Examiner objected to claims 10, 18-22, 25, and 32-34 as being dependent upon a rejected base claim and indicated that these claims would be allowable if rewritten in independent format. Applicant submits that the objection is now moot because the double-patenting rejection of independent claim 1 and claims dependent therefrom has been overcome.

Reply to QA 06-11-07

In view of the foregoing remarks, it is respectfully submitted that claims 1-44 are patentable. Therefore, it is requested that the Examiner reconsider the outstanding rejections in view of the preceding comments. Issuance of a timely Notice of Allowance of the claims is earnestly solicited.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this reply, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 50-1066.

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: June 11, 2007

By: 

Amedeo F. Ferraro
Registration No. 37,129

1557 Lake O'Pines Street, NE
Hartville, Ohio 44632
Telephone: (330) 877-0700
Facsimile: (330) 877-2030